

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CTOR HOTH and AYAKO MITSUI,
individually and as parents and natural
guardians of infant, ALYN HOTH

Plaintiffs

v.

EDWARD F. ROSSI, M.D.
and
PEDIATRICS EAST OF NEW YORK, P.C.

CIVIL ACTION NO: 05-CV-2609

Defendants

**AFFIDAVIT OF AYAKO MITSUI,
PARENT AND NATURAL GUARDIAN OF INFANT,
ALYN HOTH, FOR APPROVAL OF INFANT'S SETTLEMENT**

I, Ayako Mitsui, an adult individual, hereby state as follows:

1. I along with my husband, Victor Hotho, am the parent and natural guardian of Alyn Hotho.
2. Alyn Hotho was born on September 15, 2003, and currently resides with us at 7002 Kenosha Pass, Austin, Texas 78749.
3. I along with my husband brought this action on Alyn's behalf against Edward Rossi, M.D. and Pediatrics East of New York, Dr. Rossi's professional corporation, as a result of Dr. Rossi's failure to timely diagnose dislocation of Alyn's left hip during the time that she was his patient.
4. As a result of Dr. Rossi's failure to diagnose Alyn with developmental dysplasia of the left hip, she was caused to undergo more aggressive treatment including surgery at the Hospital

for Joint Diseases in June, 2003. Since then, she has undergone several additional procedures in an attempt to correct the dislocation.

5. As a result in the delay, Alyn has been caused to suffer avascular necrosis of the left hip and will need at least three hip replacements during the course of her lifetime. (See report and C.V. of Michael Ain, M.D. which is attached as Exhibit "A.")

6. My husband and I have reached a settlement with defendants, Dr. Rossi and Pediatrics East of New York, P.C. The proposed settlement is for \$492,500.

7. I am filing this Affidavit in support of our request that this Court approve the proposed settlement with defendants Dr. Rossi and Pediatrics East of New York, P.C.

8. The cost of this litigation totaled \$45,371.50 and consisted of:

a.	Experts	\$29,953.80
b.	Filing fees and service of documents	\$ 435.00
c.	Medical records	\$ 554.52
d.	X-rays	\$ 1,935.32
e.	Transcripts	\$ 5,383.30
f.	Legal research	\$ 251.84
g.	Medical research	\$ 65.01
h.	Travel	\$ 2,144.71
i.	Copying costs	\$ 3,199.75
j.	Postage	\$ 190.35
k.	Overnight mail	\$ 397.30
l.	Courier	\$ 21.37

m. Facsimile _____ \$ 284.00

n. Telephone \$ 100.23

9. The attorneys' fee is \$124,282.13, which is calculated on the settlement less expenses.

10. I do not oppose the costs of the litigation or my attorneys' fees.

11. My husband and I request that \$\$10,340.30 of the settlement proceeds be distributed directly to us to reimburse us our out-of-pocket medical expenses incurred as a result of defendants' negligence. (A breakdown of our expenses is attached as Exhibit "B.")

12. My husband and I also request reimbursement in the amount of \$2,343.60 to cover the costs of travel, including the airfare for me and my family to travel to New York for depositions, the non-refundable airfare for my husband to travel to New York for the hearing scheduled for April 16, 2007 (which was adjourned because of the settlement) and non-refundable airfare booked for me, my husband, Alyn and my parents (who were to babysit Alyn and Luna, our other daughter, during the trial). (Receipts for the airfare are attached as Exhibit "C.")

13. My husband and I further request that the remaining monies, \$310,162.47, be ordered to be deposited in equal amounts in 4 bank accounts we have set up in the name of Alyn Mitsui Hoto at Velocity Credit Union Main Branch, 610 East 11th Street, Austin, TX 78701 (www.velocitycu.com).

I hereby certify that the above statements made by me are true. I am aware that if any of these statements is willfully false, I may be subject to punishment.



AYAKO MITSUI